



THOMAS L. GARTHWAITE, M.D.
Director and Chief Medical Officer

FRED LEAF
Chief Operating Officer

COUNTY OF LOS ANGELES
DEPARTMENT OF HEALTH SERVICES
313 N. Figueroa, Los Angeles, CA 90012
(213) 240-8101

November 15, 2002

TO: Each Supervisor

FROM: Thomas L. Garthwaite, MD
Director and Chief Medical Officer

SUBJECT: DHS COVERAGE AND ELIGIBILITY DETERMINATION

On October 29, your Board instructed the Department of Health Services (DHS) to work with County Counsel to analyze the County's obligation under California Welfare and Institutions Code Section 17000 (Section 17000) with regard to the delivery of health care services.

Over the past several months, DHS staff have worked closely with County Counsel to understand the mandate imposed by Section 17000 and develop criteria for eligibility, in the context of the law, for the LA Access coverage program contained in the Department's waiver proposal.

Background

Your Board directed the Department and County Counsel to evaluate Section 17000, which states that counties:

"shall relieve and support all incompetent, poor, indigent persons, and those incapacitated by age, disease, or accident, lawfully resident therein, when such persons are not supported and relieved by their relatives or friends, by their own means, or by state hospitals or other state or private institutions."

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Neither the statute nor the case law interpreting it specifically defined the population of the services encompassed in this mandate. Rather, the courts have defined the patient population covered under Section 17000, in general, as the “medically indigent”, those individuals with insufficient means to pay for subsistence medical care. This broad definition makes it difficult to quantify the population, because the determination of an individual’s inability to pay for care must be decided by the extent of care required and the individuals’ financial status at the time such care is needed. Eligibility is not established unless and until both the need for health care and the inability to pay for services come together simultaneously.

The courts have stated that Section 17000 does not require the treatment of a patient seeking non-emergency care who is not a legal resident of the County. However, the federal EMTALA and state anti-dumping laws require that any patient who presents to a hospital emergency room be provided a medical screening examination and care necessary to stabilize his or her condition. As a result, DHS must provide services in its emergency departments to all patients, regardless of their income or residency status.

Because of the mandates set by federal and state laws, the Department, like other providers, has no discretion in determining whom it will care for in the emergency department setting. Some greater flexibility does exist with regard to primary and specialty care. However, prudent fiscal and health policy demand that the County closely evaluate the impact of not providing ambulatory care services to non-mandated patients.

If outpatient care is denied on income or residency, many of these patients will turn to a public or private hospital emergency department where they must be seen under the law, at a higher cost of care. This would result in a dramatic increase in the number of patients seeking care in both DHS and private emergency rooms and pose a drain on these limited resources. Further, if care is delayed, the care necessary to stabilize the condition of Section 17000 non-mandated patients is likely to be more expensive if seen under federal and state requirements related to emergency care. For example, untreated hypertension may lead to heart failure or stroke and untreated diabetes can result in dehydration and coma; the latter conditions requiring extensive hospital treatment.

It is for these reasons that the Department is not recommending that patients be excluded from accessing services based on income or residency, but rather that patient access to ambulatory care services be better controlled through the implementation of the LA Access program, as discussed below, which attempts to track and manage patients with chronic medical conditions. While coordinated care will not reduce outpatient use, in fact it often increases it, it does lead to a decrease in the utilization of inpatient and emergency care.

LA Access Program

The Department's LA Access proposal recommends the development of a defined package of services that would be made available to all patients enrolled in the program. The Department is completing its work to design a clear benefits package to govern the range of services available to LA Access patients. This benefits package is modeled after those managed by not only public systems such as San Diego County, but also private systems such as Kaiser. It will include both a list of categorical services to be provided, as well as an explicit list of excluded services that will not be available.

Through LA Access, the Department's objective is to manage and track the utilization of its patient population and, most specifically, those with chronic or on-going health care needs. Those LA Access patients who have a chronic condition that requires on-going management and fall within one of the planned Clinical Resource Management programs (which at this time includes asthma, congestive heart failure, and diabetes) or who have a high medical utilization, regardless of disease, would have access to care management interventions to coordinate their care to improve clinical quality and reduce unnecessary utilization of services.

Participants in the LA Access program would continue to bear a share of the cost of care, based upon their income, as occurs presently under the County's Ability-to-Pay (ATP) program. Under the ATP program, individuals with incomes below 85 percent of the federal poverty level have zero financial liability for care. An individual's financial liability gradually increases as income grows.

Unlike the current ATP process, under LA Access, individuals seeking care in DHS facilities would be required to show proof of current residency in Los Angeles County. County residency would be established based upon the presentation of at least one of the following forms of identification:

- Valid California Driver's License;
- Valid California Department of Motor Vehicles Identification Card;
- Rent receipt for the current month;
- Utility bill for the current month;
- Letter addressed to the patient/responsible relative with a "cancelled by" the U.S. Post Office with a current date; or,
- For homeless individuals who cannot provide any of the above, a new mechanism of identification will be developed to replace the signed affidavit that is presently accepted.

If County residency cannot be established based upon the above, a patient seeking non-emergency care would be denied services, unless the individual, or a third party payer, pays the greater of the full cost of care or what Medi-Cal would pay for the services rendered.

Implementation

There are many questions to be answered regarding the LA Access program and the Department continues to evaluate the fiscal, legal, and operational implications of this initiative, particularly in the context of the ongoing negotiations with the federal and state governments. The conclusion of these deliberations will be greater specificity about the determination of eligibility and coverage under this program.

The Department has historically offered ambulatory care to any individual seeking services, without regard to income or residency status. The operational change required within DHS to realize a model of care based upon eligibility will be significant.

Critical among the steps that must occur to ensure the appropriate implementation of LA Access is collection and analysis of patient population data to determine exactly who is utilizing DHS facilities, what services they are using, the manner in which they are accessing them, and where along the income scale they fall. This analysis will enable the Department to target the LA Access program and care management activities to maximize results. It also will allow the Department identify and establish an appropriate income threshold at which eligibility for LA Access should be set and to develop a program that maximizes resources within the available service capacity. The scope of the LA Access program and the breadth of care management services provided will be contingent upon the level of financial support received from the federal and state governments.

One challenge in making adjustments to the manner in which patients are determined to be eligible for services or the level of cost they should bear is the Etter Consent Decree. This settlement agreement was entered into in the 1980's and consisted of the ATP program and the County's reduced cost health care notices, which contain the prepayment plan program. Major changes to the ATP program or reduced cost notices would require consent of the legal advocates who were party to the original lawsuit and/or approval of the Los Angeles County Superior Court. The interaction between LA Access and current payment programs is complex and will require significant evaluation and potential modification. Additionally, the ORSA program, approved by your Board in 2001, provides for a simplified outpatient registration process that precludes financial verification prior to treatment. By the terms of the 1115 Waiver and the Etter Consent Decree, ORSA may not be terminated prior to the expiration of the 1115 Waiver.

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Implementation also will require improved information technology that allows for communication within and across DHS facilities will. As I have noted in the past, I am committed to putting into place a unique patient identifier that will be critical to tracking the utilization of care by DHS patients. Such a system also will be necessary to implement and enforce eligibility determination, as well as standardized utilization controls, among patients under LA Access.

Additionally, the significance of the potential changes to the delivery of care under the LA Access program will require considerable consultation, not only internally within the County, but with external stakeholders as well.

I will keep you apprised as to the Department's progress on this issue. Please let me know if you have any questions.

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c: Chief Administrative Officer
County Counsel
Executive Officer, Board of Supervisors